IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10280 of 2004

Between:
R.Ramachandra Rao Chowdary S/o Suryanarayana Rama Rao R/oValluru Kapileswrapuram Mandal East Godavari Dist

..... PETITIONER

AND

1 Sri Venu Gopala Swamy Vari Temple Valluru Village, Kapileswarpuram Mandal, East Godavari District, rep. by its Manager
2 The Commissioner of Endowments Govt. Of AP. Tilak Road Abids, Hyderabad.
3 The Deputy Commissioner, Endowments Dept., Kakinada, E.G.District
4 The Assistant Commissioner of Endowments Rajahmundry, East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the Notice No. dt. 24/05/2004 issued by the 1st respondent is illegal, null and void, and violative of Art 14 and 21 of the constitution of India and contrary to the provisions of sub-sec 2 of Section 82 of Act 30/1987 and rules issued in G.O.Ms.No.379 Revenue (Endts.I) Dept., dt. 11/03/2003, and consequently to direct the respondents to allow the petitioner to cultivate the lands an extent of Ac. 6-97 cents covered by S.No.264/3b, 272/3B, and 283/2A of Valluru village , Kapileswarpuram Mandal, East Godavari District, by extending the benefits under section 82(2) of the Endowments Act,

Counsel for the Petitioner: MR.G.KRISHNA MURTHY

Counsel for the Respondent No.1: Mr.P.Udayabhaskara Rao

Counsel for the Respondent Nos.2 to 4: GP FOR ENDOWMENTS

The Court made the following:

ORDER:

This writ petition is filed by the petitioner who is stated to be the tenant of first respondent-temple with reference to Ac.6.97 cents of land situated in Survey Nos.264/3B, 272/3B and 283/2A of ValluruVillage, Kapileswarapuram Mandal, East Godavari District.

2. According to the petitioner, he and his father were continued as tenants from the year 1963 and accordingly he and his father have invested huge amounts for reclamation of the land and to bring the land under cultivation. It is also stated that originally the first respondent-temple fixed the rent/maktha at the rate of 57.5 bags of paddy per annum and later it was enhanced by an order of this Hon'ble Court passed in C.R.P.No.2426 of 1998, to 20 bags of paddy per acre per annum and the lease was allowed for a period of 5 years ending with 2003-2004. It is also stated that after the expiry of the said period of lease, the petitioner is also entitled for renewal of the lease, in terms of the lease agreement, as per the order referred to above. The learned counsel for the petitioner also contended that the petitioner is a landless poor and is also entitled for preferential purchase in terms of Section 82(2) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') read with G.O.Ms.No.379, Revenue (Endowments.I), dated

11.03.2003.

3. The learned counsel for the petitioner contended that though the Assistant Commissioner is obligated to adjudicate upon the claim of the petitioner whether he is a landless poor or not, so far no orders have been passed. Therefore, even on that ground also, the proposed action of respondents in directing the petitioner to handover possession of the above lands within a period of 30 days from the date of receipt of the notice dated 24-05-2004, is illegal and unsustainable. Therefore, sought to quash the said notice.

4. The learned Government Pleader for Endowments, on the other hand, supported the action of the respondents.

5. Heard both sides and considered the material on record.

6. The claim of the petitioner is that he is a tenant and is entitled to be in possession till his claim as landless poor person is adjudicated upon by the Assistant Commissioner having jurisdiction. In the absence of such adjudication, the notice issued by first respondent is illegal and unsustainable and the petitioner cannot be treated as an encroacher. The learned counsel also sought to rely upon certain circulars said to have been issued by the Commissioner and one of which is dated 04.06.2004, under which a reference was made to the persons who are to be declared as landless and who are entitled to be in possession of the land within the limits prescribed under the provisions of the Act. Therefore, the learned counsel sought for a direction to the respondents that at least the petitioner should be allowed to retain his possession to the

extent of the ceiling limit prescribed under Section 82 of the Act. But, a perusal of the provisions of the Act or the Government Order issued in G.O.Ms.No.379 or the circulars, do not contemplate that the tenant should be retained possession to the extent of 1 hectare of wet land and 2 hectares of dry land. The provisions of the Act only contemplates that if a person is in possession of less than one hectare of wet land or 2 hectares of dry land, such person shall be treated as a landless poor, who is entitled for the benefit of provisions. In the present case, the petitioner admittedly, is in possession of Ac.6.97 cents of land apart from land if any, owned and possessed by him. This extent, which is in the possession of the petitioner as a tenant, itself shows that he is not a landless poor in terms of Section 82(2) of the Act read with G.O.Ms.No.379. In the absence of any such benefit available to the petitioner, he cannot assail the notice issued by first respondent under which the petitioner was directed to handover possession of the lands, which the petitioner continued to be in possession as a tenant even after the expiry of the lease period. Therefore, the petitioner is not entitled to any relief in the present writ petition. However, if the petitioner makes any representation bringing to the notice of the respondent-authorities that he is entitled to any benefit, the authorities may consider his representation.

7. Accordingly the Writ Petition is dismissed. No costs.

23rd June, 2004

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1 The Manager, Sri Venu Gopala Swamy Vari Temple, Valluru Village, Kapileswarpuram Mandal, East Godavari District.
2 The Commissioner of Endowments Govt. of A.P., Tilak Road Abids, Hyderabad.
3 The Deputy Commissioner, Endowments Dept., Kakinada, E.G.District
4 The Assistant Commissioner of Endowments Rajahmundry, East Godavari District
5 Two CCs to the Govt. Pleader for Endowments, High Court Buildings, Hyderabad (OUT)
6 Two CD copies.